

103^D CONGRESS
1ST SESSION

H. R. 450

To amend the Public Works and Economic Development Act of 1965 to establish a National Public Works Corporation for purposes of providing financial assistance to States and local governments for the construction, rehabilitation, and repair of certain public facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1993

Mr. CLINGER introduced the following bill; which was referred to the
Committee on Public Works and Transportation

A BILL

To amend the Public Works and Economic Development Act of 1965 to establish a National Public Works Corporation for purposes of providing financial assistance to States and local governments for the construction, rehabilitation, and repair of certain public facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “National Public Works
4 Corporation Act”.

1 SEC. 2. Title II of the Public Works and Economic
2 Development Act of 1965 (42 U.S.C. 3141–3144) is
3 amended to read as follows:

4 “TITLE II—PUBLIC WORKS CORPORATION

5 “ESTABLISHMENT OF THE PUBLIC WORKS CORPORATION

6 “SEC. 201. There is established a body corporate to
7 be known as the National Public Works Corporation (re-
8 ferred to in this title as the ‘Corporation’) which shall be
9 an instrumentality of the United States and shall have
10 succession until dissolved by Act of Congress.

11 “BOARD OF DIRECTORS

12 “SEC. 202. (a) The management of the Corporation
13 shall be vested in a Board of Directors consisting of seven
14 directors who shall be appointed by the President by and
15 with the advice and consent of the Senate. One director
16 shall be appointed as Chairman and one director shall be
17 appointed as Vice Chairman in accordance with subsection
18 (b). Except as provided in subsection (b) of this section,
19 the term of each director shall be eight years. Any director
20 appointed to fill a vacancy shall be appointed only for the
21 unexpired portion of the term. Any director may continue
22 to serve as such after the expiration of the term for which
23 he was appointed until his successor has been appointed
24 and has qualified.

1 “(b) Of the members first appointed to the Board of
2 Directors, one shall be appointed for a term of two years,
3 one shall be appointed for a term of three years, one (who
4 shall be appointed Vice Chairman) shall be appointed for
5 a term of four years, one shall be appointed for a term
6 of five years, one shall be appointed for a term of six
7 years, one shall be appointed for a term of seven years,
8 and one (who shall be appointed Chairman) shall be ap-
9 pointed for a term of eight years. Any person appointed
10 as a director thereafter to fill the seat held by the Vice
11 Chairman shall be appointed as Vice Chairman and any
12 person appointed as a director thereafter to fill the seat
13 held by the Chairman shall be appointed as Chairman.

14 “OFFICERS AND EMPLOYEES

15 “SEC. 203. (a) The Board of Directors of the Cor-
16 poration shall appoint a President of the Corporation and
17 such other officers and employees as it deems necessary
18 to carry out the functions of the Corporation, subject to
19 the provisions of title 5, United States Code, governing
20 appointments in the competitive service, and persons so
21 appointed shall be paid in accordance with the provisions
22 of chapter 51 and subchapter III of chapter 53 of such
23 title relating to classification and General Schedule pay
24 rates. The President of the Corporation shall be an ex
25 officio member of the Board of Directors and may partici-

1 pate in meetings of the Board except that he shall have
2 no vote except in case of an equal division. No individual
3 other than a citizen of the United States may be an officer
4 of the Corporation. No officer of the Corporation shall re-
5 ceive any salary or other remuneration from any source
6 other than the Corporation during the period of his em-
7 ployment by the Corporation.

8 “(b) No director, officer, attorney, agent, or employee
9 of the Corporation shall in any manner, directly or indi-
10 rectly, participate in the deliberations upon or the deter-
11 mination of any question affecting his personal interests,
12 or the interests of any corporation, partnership, or asso-
13 ciation in which he is directly or indirectly interested.

14 “(c) The Chairman and Vice Chairman shall be com-
15 pensated at the rate payable under level III of the Execu-
16 tive Schedule under section 5314 of title 5, United States
17 Code. The other directors shall be compensated at the rate
18 payable under level IV of the Executive Schedule under
19 section 5315 of title 5, United States Code.

20 “(d) Not more than four directors serving at any time
21 may be from one political party.

22 “(e) The Corporation shall not engage in political ac-
23 tivities nor provide financing for or assist in any manner
24 any project or facility involving political parties, nor shall
25 the directors, officers, employees, or agents of the Cor-

1 poration in any way use their connection with the Corpora-
2 tion for the purpose of influencing the outcome of any
3 election.

4 “CORPORATE POWERS

5 “SEC. 204. (a) The Corporation shall have power—

6 “(1) to adopt, alter, and use a corporate seal;

7 “(2) to make contracts;

8 “(3) to lease such real estate as may be nec-
9 essary for the transaction of its business;

10 “(4) to sue and be sued, to complain and de-
11 fend, in any court of competent jurisdiction, State or
12 Federal;

13 “(5) to select, employ, and fix the compensation
14 of such officers, employees, attorneys, and agents as
15 shall be necessary for the transaction of the business
16 of the Corporation;

17 “(6) to define the authority and duties of such
18 officers, employees, attorneys, and agents, require
19 bonds of them and fix the penalties thereof, and to
20 dismiss at pleasure such officers, employees, attor-
21 neys, and agents;

22 “(7) to prescribe, amend, and repeal, by its
23 Board of Directors, bylaws, rules, and regulations
24 governing the manner in which its general business
25 may be conducted and the powers granted to it by

1 law may be exercised and enjoyed together with pro-
2 vision for such committees and the functions thereof
3 as the Board of Directors may deem necessary for
4 facilitating its business under this title; and

5 “(8) to exercise, to the extent not inconsistent
6 with the provisions of this title, the general cor-
7 porate powers of a corporation organized and exist-
8 ing under the laws of the District of Columbia.

9 “(b) The Board of Directors of the Corporation shall
10 determine and prescribe the manner in which its obliga-
11 tions shall be incurred and its expenses allowed and paid.

12 “(c) The Corporation shall be entitled to the free use
13 of the United States mails in the same manner as the ex-
14 ecutive departments of the Government.

15 “(d) The Corporation, with the consent of any board,
16 commission, independent establishment, or executive de-
17 partment of the Government, including any field service
18 thereof, may avail itself of the use of information, services,
19 facilities, officers, and employees thereof in carrying out
20 the provisions of this title.

21 “PRINCIPAL OFFICE

22 “SEC. 205. The principal office of the Corporation
23 shall be located in the District of Columbia.

1 “BORROWING AUTHORITY

2 “SEC. 206. (a) The Corporation may issue notes, de-
3 bentures, bonds, and other evidences of indebtedness in
4 such amounts and on such terms and conditions as its
5 Board of Directors may determine subject to the limita-
6 tions prescribed in this title.

7 “(b) Except as provided in section 209(b) of this title,
8 the aggregate outstanding indebtedness of the Corporation
9 under this section at any time may not exceed ten times
10 the reserve fund of the Corporation under section 207(a)
11 of this title at that time.

12 “(c) The obligations of the Corporation issued under
13 this section shall be guaranteed with the full faith and
14 credit of the United States.

15 “(d) Any of the obligations issued by the Corporation
16 may be secured by its pledging or granting of security in-
17 terests in all or any part of its revenues or other receipts
18 or all or any part of its assets.

19 “(e) Neither the Directors nor any other person exe-
20 cuting obligations shall be subject to any personal liability
21 or accountability by reason of the issuance thereof.

22 “(f) All obligations of the Corporation shall be nego-
23 tiable instruments, subject only to any provisions for reg-
24 istration of ownership of obligations.

1 “CAPITALIZATION AND RESERVE FUND

2 “SEC. 207. (a) The capitalization of the Corporation
3 shall consist of amounts appropriated pursuant to sub-
4 section (b) of this section and amounts contributed by par-
5 ticipating States in accordance with subsection (c) of this
6 section. The amount of the capitalization shall constitute
7 a reserve fund which shall not be available for making
8 loans under this title. The Corporation may invest any
9 portion of the reserve fund which is not, in its judgment,
10 required to meet current needs. Such investments may be
11 made only in interest-bearing obligations of the United
12 States with maturities suitable for the needs of the Cor-
13 poration. The interest on and the proceeds from the sale
14 or redemption of any such obligation shall be credited to
15 and form a part of the reserve fund.

16 “(b) There is authorized to be appropriated for the
17 capitalization of the Corporation for fiscal years beginning
18 after September 30, 1993, not to exceed \$2,500,000,000.

19 “(c) A State electing to participate in the Corporation
20 may make contributions to the Corporation at such times
21 and in such amounts as the State chooses. Except as pro-
22 vided in section 209(d) of this title, the total contributions
23 of a State to the Corporation shall not exceed an amount
24 equal to the amount which bears the same ratio to

1 \$2,500,000,000 as the population of such State bears to
2 the population of all the States.

3 “LOANS TO STATES AND LOCAL GOVERNMENTS

4 “SEC. 208. (a) The Corporation is authorized to
5 make loans to participating States and to units of local
6 government located in participating States for projects for
7 the construction, rehabilitation, and repair of public facili-
8 ties in accordance with this section. Any such loan may
9 be in an amount sufficient to pay for all or a portion of
10 the cost of completing an approved project, except that
11 the amount of any such loan may not be used for payment
12 of the non-Federal share of the cost of any project for
13 which a Federal grant is made.

14 “(b)(1) Except as otherwise provided in section
15 209(c) of this title, the total amount of the loans outstand-
16 ing under subsection (a) of this section shall at no time
17 exceed the aggregate outstanding indebtedness of the Cor-
18 poration under section 206(b) of this title.

19 “(2)(A) Except as otherwise provided in subpara-
20 graph (B) of this paragraph and section 209(c) of this
21 title, the total amount of the loans to a State and to units
22 of local government within such State outstanding under
23 subsection (a) of this section shall at no time exceed that
24 amount which bears the same ratio to the total amount
25 allowable under paragraph (1) of this subsection as the

1 amount of contributions made by such State to the Cor-
2 poration under section 207(c) of this title bears to the
3 amount of contributions made by all participating States
4 to the Corporation under section 207(c) of this title.

5 “(B) In no event shall the total amount allowable
6 under subparagraph (A) for loans to a State and to units
7 of local government in such State exceed the amount
8 which would be allowable for loans to such State and such
9 units under subparagraph (A) if (i) the full amount au-
10 thorized by section 207(b) were appropriated, (ii) each
11 State made the maximum contribution allowable to such
12 State under section 207(c), and (iii) the Corporation in-
13 curred the maximum allowable indebtedness under section
14 206(b).

15 “(c) The Corporation may not make a loan for a
16 project for a public facility unless the Corporation deter-
17 mines that the public facility after completion of the
18 project will generate fees for the use of the facility in
19 amounts sufficient to repay the principal and interest on
20 the loan and to create a sufficient reserve for operation
21 and maintenance of the project and for replacement costs
22 over the useful life of the project. An applicant for a loan
23 under this section shall demonstrate to the satisfaction of
24 the Corporation that such applicant (or the agency or in-
25 strumentality for whom such applicant is applying under

1 subsection (h)(1) or (h)(2)) has the legal authority to as-
2 sess and collect such fees with respect to the project and
3 that such fees will provide sufficient revenues to meet the
4 requirements of the preceding sentence.

5 “(d) As a condition of any loan made under this title
6 for a project for a public facility, the Corporation shall
7 require that fees for the use of the facility be collected
8 over the term of the loan in amounts sufficient to meet
9 the requirements of subsection (c) and that all such fees
10 be deposited in separate accounts (1) for the payment of
11 principal and interest on such loan, and (2) for the pay-
12 ment of operation, maintenance, and replacement costs.

13 “(e) The Corporation may disapprove a loan applica-
14 tion under this section for a project if it determines that
15 the project is not feasible from an engineering standpoint,
16 that the project will not generate revenues sufficient to
17 satisfy the requirements of subsection (c) of this section,
18 or that it is otherwise inconsistent with this title.

19 “(f) Each loan made under this title shall bear inter-
20 est at a rate determined by the Corporation to be nec-
21 essary to provide a return to the Corporation sufficient
22 to pay for the Corporation’s cost of borrowing funds and
23 for the Corporation’s administrative costs (including the
24 costs of salaries of directors, officers, and employees).

1 “(g) The term of repayment for any loan made under
2 this section shall not exceed the useful life of the project
3 (as determined by the Corporation), except that in no
4 event shall such term exceed 25 years.

5 “(h)(1) The Governor of a State shall submit applica-
6 tions for loans for projects involving public facilities of
7 such State or any agency or instrumentality of such State.
8 In the case of any agency or instrumentality of two or
9 more States, the Governors of such States shall jointly
10 submit applications for loans for projects involving public
11 facilities of such agency or instrumentality.

12 “(2) The responsible official of a unit of local govern-
13 ment shall submit applications for loans for projects in-
14 volving public facilities of such unit of local government
15 or any agency or instrumentality of such unit. In the case
16 of an agency or instrumentality of two or more units of
17 local government, the responsible officials of such units
18 shall jointly submit applications for loans for projects in-
19 volving public facilities of such agency or instrumentality.

20 “(3) The Corporation shall not approve an applica-
21 tion for a loan submitted by one or more units of local
22 government within a State unless the Governor of such
23 State has certified approval of the application.

24 “(4) The Governor of a State shall not submit appli-
25 cations for loans for such State and approve applications

1 for loans for units of local government in such State in
2 aggregate amounts which exceed the amount allowable for
3 loans in such State under subsection (b)(2). Any applica-
4 tion for a loan for a project for an agency or instrumental-
5 ity of two or more States shall contain an agreement
6 among such States as to the apportionment of costs
7 among such States for purposes of this paragraph and
8 subsection (b)(2).

9 “(5) The Governor of a State shall ensure a proper
10 distribution of the funds allowable for loans in such State
11 under subsection (b)(2) between urban and rural areas by
12 selecting projects for submission under paragraph (1) and
13 projects for approval under paragraph (2) so that the per-
14 centage of funds borrowed for projects in units of local
15 government having a population of 50,000 or more is not
16 more than 5 percent greater nor less than 5 percent lower
17 than the percentage of the State’s population residing in
18 units of local government having a population of 50,000
19 or more. After the end of the two-year period beginning
20 on the date the first loan is made under this title to a
21 State or a unit of local government in such State, the Cor-
22 poration shall only make a loan to such State or such a
23 unit if, after taking into account that loan and all previous
24 loans made to such State and such units, the Governor
25 will be in compliance with the preceding sentence or will

1 be more closely in compliance with the preceding sentence
2 than before such loan was made.

3 “(i) As a condition of any loan under this title, the
4 Corporation shall require that all contracts made with the
5 proceeds of such loan be awarded on the basis of competi-
6 tive bidding.

7 “(j) The Corporation shall conduct such audits as
8 may be necessary to enforce this title. If the Corporation
9 determines that fees are not being collected in sufficient
10 amounts to meet the requirements of subsection (c) of this
11 section, the Corporation shall notify the loan recipient of
12 the amount by which such fees need to be increased. The
13 Corporation shall not make additional loans to such recipi-
14 ent until the fees are so increased.

15 “(k) There is authorized to be appropriated to the
16 Corporation for fiscal years beginning after September 30,
17 1993, such additional sums as may be necessary to reduce
18 interest rates paid by borrowers under this title. Any
19 amount appropriated under this subsection for a fiscal
20 year shall be applied uniformly, as determined by the Cor-
21 poration, to reduce interest rates for all recipients of loans
22 under this title during such fiscal year.

23 “DEFAULTS

24 “SEC. 209. (a)(1) If the Corporation determines that
25 any loan is in default, the Corporation shall notify the re-

1 cipient (and the State in which a unit of local government
2 is located if such unit is the recipient) of such default.

3 “(2) During the period beginning on the date of such
4 notification and ending on the earlier of the date such de-
5 fault is cured or the date which is two years after the date
6 of such notification, the Corporation shall not make loans
7 to such recipient and, in any case in which the recipient
8 is a State, the Corporation shall not make loans to any
9 unit of local government within that State.

10 “(3) If the recipient (or the State on behalf of a recip-
11 ient which is a unit of local government) does not cure
12 any default within two years after the date of notification
13 under paragraph (1), the Corporation shall reduce the re-
14 serve fund established under section 207(a) by the amount
15 of the loan which remains in default. Such amount shall
16 be set aside for purposes of repaying the holders of the
17 obligations issued under section 206 of this title.

18 “(b) A reduction in the reserve fund under subsection
19 (a)(3) of this section shall not affect any outstanding obli-
20 gation for purposes of applying the limitation on indebted-
21 ness under section 206(b) of this title. The Corporation
22 shall not issue any obligation under section 206 of this
23 title after such a reduction if the outstanding indebtedness
24 of the Corporation after the issuance of such obligation

1 exceeds an amount equal to ten times the reserve fund,
2 as so reduced.

3 “(c) A reduction in the reserve fund under subsection
4 (a)(3) of this section shall not affect any outstanding loan
5 for purposes of applying the limitations on amounts allow-
6 able for loans under paragraphs (1) and (2) of section
7 208(b) of this title. Any reduction in the amount available
8 for loans which results from such a reduction in the re-
9 serve fund shall first be applied to reduce the amount
10 available for future loans to the State which is found to
11 be in default and to units of local government within such
12 State. To the extent necessary, after the amount available
13 to such State and such units is reduced to zero, such a
14 reduction in the reserve fund shall be applied to reduce
15 the amount available for future loans to the other States
16 and units of local government within such States in pro-
17 portion to the contributions of each such State to the
18 Corporation.

19 “(d) At any time after a reduction is made in the
20 reserve fund under subsection (a)(3) of this section on ac-
21 count of a default by a State or a unit of local government
22 in such State, such State may contribute all or a portion
23 of the amount of such reduction to the reserve fund. Any
24 additional amount of authority to make loans under sec-
25 tion 208(b)(1) resulting from such contribution shall first

1 be made available to States other than the State making
2 such contribution and to units of local government in such
3 States to the extent that the amount available to such
4 other States and units was reduced under subsection (c)
5 of this section, and any excess authority to make loans
6 resulting from such contribution shall be made available
7 to the State making such contribution and to units of local
8 government in such State.

9 “TAXABLE STATUS

10 “SEC. 210. The Corporation, its property, its fran-
11 chise, capital, reserves, surplus, security holdings, and
12 other funds, and its income shall be exempt from all tax-
13 ation now or hereafter imposed by the United States or
14 by any State or local taxing authority; except that (1) any
15 real property and any tangible personal property of the
16 Corporation shall be subject to Federal, State, and local
17 taxation to the same extent according to its value as other
18 such property is taxed, and (2) any and all obligations
19 issued by the Corporation shall be subject both as to prin-
20 cipal and interest to Federal, State, and local taxation to
21 the same extent as the obligations of private corporations
22 are taxed.

23 “AUDIT BY GENERAL ACCOUNTING OFFICE

24 “SEC. 211. The General Accounting Office shall audit
25 the financial transactions of the Corporation, and for this

1 purpose shall have access to all its books, records, and
2 accounts.

3 “ANNUAL REPORT

4 “SEC. 212. The Corporation shall submit an annual
5 report to the Congress and the President as soon as prac-
6 ticable after the end of each fiscal year on the status of
7 the Corporation and its reserve fund. Each such report
8 shall include a description of the projects for which loans
9 were made during the preceding fiscal year.

10 “DEFINITIONS

11 “SEC. 213. For purposes of this title—

12 “(1) the term ‘construction’ means the actual
13 building of a new public facility at a site where no
14 similar facility previously existed, including the ac-
15 quisition of land for such facility and nonstructural
16 alternatives, and the reconstruction of a public facil-
17 ity at an existing site or adjacent to an existing site;

18 “(2) the term ‘maintenance’ means routine and
19 regularly scheduled activities intended to keep a
20 public facility operating at its designed specifica-
21 tions;

22 “(3) the term ‘public facility’ means any facility
23 owned or operated by a State, a unit of local govern-
24 ment, or an agency or instrumentality of one or
25 more States or units of local government, including,

1 but not limited to, a highway, street, bridge, mass
2 transit facility and equipment, airport, water supply
3 and distribution system, sewer, lock and dam, build-
4 ing, port, waterway, and dock; except that such term
5 does not include any Federal-aid highways (as de-
6 fined in title 23, United States Code);

7 “(4) the term ‘rehabilitation’ means the correc-
8 tion of structural flaws in a public facility so as to
9 extend the design life of such facility;

10 “(5) the term ‘repair’ means the correction of
11 a structural flaw in a public facility without adding
12 significantly to the design life of such facility;

13 “(6) the term ‘State’ means the several States,
14 the District of Columbia, Puerto Rico, the Virgin Is-
15 lands, Guam, American Samoa, and the Common-
16 wealth of the Northern Marianas; and

17 “(7) the term ‘unit of local government’ means
18 a city, county, town, township, parish, village, or
19 other general purpose political subdivision of a
20 State, and an Indian tribe.”.

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